National Greenhouse and Energy Reporting Amendment Regulation 2012 (No. 2)1

Select Legislative Instrument 2012 No. 162

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *National Greenhouse and Energy Reporting Act 2007*.

Dated 12 July 2012

QUENTIN BRYCE

Governor-General

By Her Excellency’s Command

GREG COMBET

Minister for Climate Change and Energy Efficiency

1 Name of regulation

 This regulation is the *National Greenhouse and Energy Reporting Amendment Regulation 2012 (No. 2)*.

2 Commencement

 This regulation commences on the day after it is registered.

3 Amendment of *National Greenhouse and Energy Reporting Regulations 2008*

 Schedule 1 amends the *National Greenhouse and Energy Reporting Regulations 2008*.

Schedule 1 Amendments

(section 3)

[] Regulation 1.03

insert

***identifying information***, for a facility, means the information required under paragraphs 4.04A (2) (a) to (h).

[] Regulation 1.03

insert

***identifying information***, for a person, means the following information:

 (a) the person’s name and trading name (if any);

 (b) the person’s identifying details (if any);

 (c) a statement about whether the person is an individual, a body corporate, a trust, a corporation sole, a body politic or a local governing body;

 (d) if the person is an individual—the following:

 (i) the person’s telephone number, email address and residential address;

 (ii) if the person’s postal address is different from the person’s residential address—the person’s postal address;

 (e) if the person is not an individual—the following:

 (i) the postal address of the head office of the person;

 (ii) the name, position, telephone number, email address and postal address of a contact person for the person;

 (f) if the person is a body corporate that is not a foreign person—details of at least one executive officer (or equivalent) of the body corporate, including the officer’s name, telephone number, email address and postal address;

 (g) if the person is a body corporate that is a foreign person—the details mentioned in paragraph (f) for the body corporate and the name of any Australian agent through which the person conducts business;

 (h) if the person is a trust—the name, telephone number, email address and postal address of each trustee;

 (i) if the person is a corporation sole—the name and address of the individual who makes up the corporation sole;

 (j) if the person is a body politic or local governing body—the name, telephone number, email address and postal address of at least one officeholder of the body politic or local governing body;

 (k) if the person is a body established under a law of the Commonwealth, a State or a Territory (other than a general law allowing incorporation as a company or body corporate)—the following:

 (i) the name of the legislation establishing the body;

 (ii) the date the body was established;

 (iii) whether the body is a Commonwealth, State or Territory body.

[] Regulation 1.03, definition of *liquefied aromatic hydrocarbons*

omit

and xylene.

insert

or xylene, or mixtures of those substances.

[] Regulation 1.03

insert

***liquefied petroleum gas*** has the meaning given by subsection 3 (1) of the *Excise Tariff Act 1921*.

[] Regulation 1.03, definition of *liquid petroleum gas*

omit

[] Subregulation 2.27 (1)

omit

 (1) For paragraphs 11AA (3) (c), 11AB (3) (c),

insert

 For paragraphs

[] Subregulation 2.27 (2)

omit

[] Regulation 2.28, heading

substitute

2.28 Nomination of person or trustee

[] Subregulations 2.28 (1) to (3)

substitute

 (1) This regulation applies if a person or trustee is nominated to have operational control over a facility under subsection 11B (2) or 11C (2) of the Act.

 (2) The nomination must be accompanied by the following information:

 (a) the day on which the nomination is to come into force;

 (b) the day on which the nomination is to end;

 (c) a statement about whether the nomination replaces an existing nomination;

 (d) the identifying information for the nominee;

 (e) whether the nominee is nominated for section 11B or 11C of the Act;

 (f) a statement about whether the nominee is:

 (i) an externally-administered body corporate; or

 (ii) insolvent under administration;

 (g) the identifying information for the facility;

 (h) a statement about whether the facility is a facility of a designated joint venture.

 (3) If the nomination is made under subsection 11B (2) of the Act, the nomination must also be accompanied by the following information:

 (a) a statement from each of the other persons who satisfies paragraph 11 (1) (a) of the Act in relation to the facility for the relevant period that the person consents to the nomination of the nominee;

 (b) for each of the persons mentioned in paragraph (a)—the following:

 (i) if the identifying information for the person has not previously been given to the Regulator—that identifying information;

 (ii) if the identifying information for the person has previously been given to the Regulator—the following:

 (A) the person’s name, postal address and identifying details (if any);

 (B) the name, position, telephone number, email address and postal address of a contact person for the person;

 (c) if the nominee is a foreign person—a statement that all of the persons mentioned in paragraph (a) are also foreign persons;

 (d) a statement that the facility passes the eligible nomination test in subsection 11B (1) of the Act, because:

 (i) each of the persons that made the nomination could satisfy paragraph 11 (1) (a) of the Act in relation to the facility; and

 (ii) no particular person has the greatest authority to introduce and implement the policies mentioned in paragraph 11 (1) (a) of the Act; and

 (iii) no declaration under section 55 or 55A of the Act applies in relation to the facility.

[] Subregulation 2.28 (4)

omit

11AB (2) or

[] Paragraph 2.28 (4) (c)

omit

persons.

insert

persons;

[] After paragraph 2.28 (4) (c)

insert

 (d) a statement that the facility passes the eligible nomination test in subsection 11C (1) of the Act, because:

 (i) a trust has operational control of the facility; and

 (ii) there are 2 or more trustees of the trust; and

 (iii) no declaration under section 55 or 55A of the Act applies in relation to the facility.

[] Regulation 2.29

omit

[] Subregulation 3.03A (2)

substitute

 (2) The application must also set out the following information
if that information has not previously been given to the Regulator:

 (a) the identifying information for the applicant;

 (b) if the applicant is a subsidiary of a controlling corporation registered under the Act—a statement to that effect, and the identifying details of the controlling corporation.

[] Paragraphs 3.05 (1) (a) to (g)

substitute

 (a) the identifying information for the applicant;

[] Paragraph 4.06 (1) (c)

omit

4.4.2 and 4.4.3

insert

4.4.2, 4.4.3 and 4.4.5

[] Paragraph 4.22 (1) (d)

omit

energy.

insert

energy; and

[] After paragraph 4.22 (1) (d)

insert

 (e) the facility’s net energy consumption, worked out under regulation 5.03.

[] Regulation 5.03

substitute

5.03 Adjusting energy consumption

 (1) For subsections 24 (7) and (8) of the Act, this regulation sets out how to adjust energy consumption to work out ***net energy consumption***.

Corporation’s group

 (2) The energy consumption for a corporation’s group mentioned in paragraph 24 (1) (c) of the Act is adjusted using the following steps.

|  |  |
| --- | --- |
| *Step 1* | For each facility of the corporation’s group, adjust the facility’s energy consumption by deducting the energy content of the secondary fuels and energy commodities produced from the operation of the facility from the total energy consumed by the operation of the facility. |
| *Step 2* | Add together each result in step 1. |

Group members and business units

 (3) The energy consumption for each member of a corporation’s group mentioned in paragraph 24 (1A) (c) of the Act is adjusted using the steps in subregulation (2), as if the reference in step 1 to ‘the corporation’s group’ were a reference to ‘the group member’.

 (4) The energy consumption for each business unit in relation to a corporation’s group mentioned in paragraph 24 (1A) (c) of the Act is adjusted using the steps in subregulation (2), as if the reference in step 1 to ‘of the corporation’s group’ were a reference to ‘for which the business unit has administrative responsibility’.

Reports under section 22E or 22G of the Act

 (5) The energy consumption from the operation of a facility which is the subject of a report mentioned in subsection 24 (1AD) of the Act is adjusted by deducting the energy content of the secondary fuels and energy commodities produced from the operation of the facility from the total energy consumed by the operation of the facility.

[] Paragraphs 6.02 (1) (a) and (b)

substitute

 (a) the identifying information for the applicant;

[] Subregulations 6.02 (1A) and (1B)

substitute

 (1A) If the applicant is a controlling corporation, the application must also include the following information for the member of the corporation’s group that has overall control in relation to the activity or series of activities that are the subject of the application:

 (a) the member’s name, identifying details and postal address;

 (b) the name, position, telephone number, email address and postal address of a contact person for the member;

 (c) whether the member is a controlling corporation or a controlling corporation’s subsidiary covered by subsection 8 (3) of the Act.

[] Paragraphs 6.03 (1) (b) and (c)

substitute

 (b) the identifying information for the applicant;

[] Paragraph 6.03 (1) (e)

substitute

 (e) evidence (such as details of contracts or arrangements) showing that the applicant has:

 (i) authority to introduce and implement the policies mentioned in paragraph 11 (1) (a) of the Act in relation to the facility; and

 (ii) substantial authority to introduce and implement either or both of the following:

 (A) operating policies for the facility;

 (B) environmental policies for the facility;

[] Paragraphs 6.03 (1) (g) to (j)

substitute

 (g) the identifying information for the facility for which the declaration is sought;

[] Subregulation 6.03 (1), note

omit

[] Subregulations 6.03 (2) to (4)

substitute

 (2) If the applicant is a controlling corporation’s subsidiary covered by subsection 8 (3) of the Act, the application must also include the written consent of the controlling corporation to the making of the declaration.

[] Subregulation 6.04A (3)

omit

out by a Category 2 auditor or a Category 3 auditor in accordance with the Audit Determination.

insert

out, in accordance with the Audit Determination, by an audit team leader who is a Category 2 auditor or a Category 3 auditor.

[] Schedule 1, item 44

omit

Liquid

insert

Liquefied

[] Schedule 1, item 66

substitute

|  |  |  |
| --- | --- | --- |
| 66 | Energy commodities (other than those mentioned in items 58 to 65) in the form of steam, compressed air or waste gas: (a) acquired by any means from outside the facility boundary (regardless of whether any payment or exchange has been made) either to produce heat or for another purpose; or (b) produced at the facility and transferred to another facility  | Nomination required |

**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003.* See [www.comlaw.gov.au](http://www.comlaw.gov.au/).